



OFFICIAL GAZETTE

GOVERNMENT OF GOA

EXTRAORDINARY

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

LD/1/87-(L.A.B.)

The Constitution (Fifty-sixth Amendment) Act, 1987 which was passed by Parliament and assented to by the President of India on 23rd May, 1987 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 25th May, 1987, is hereby republished for general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 3rd September, 1987.

The Constitution (Fifty-sixth Amendment) Act, 1987

AN

ACT

further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Constitution (Fifty-sixth Amendment) Act, 1987.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Insertion of new article 371-I.*— After article 371H of the Constitution, the following article shall be inserted, namely:—

“371-I. *Special provision with respect to the State of Goa.*— Notwithstanding anything in this Constitution, the Legislative Assembly of the State of Goa shall consist of not less than thirty members.”

Notification

LD/1/87-LAB

The Terrorist and Disruptive Activities (Prevention) Ordinance, 1987 which has been promulgated by the President of India and published in the Extraordinary Gazette of India, Part II Section 1 dated 23-5-1987 is hereby republished for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 1st July, 1987.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd May, 1987/
/Jyaistha 2, 1909 (Saka)

The Terrorist and Disruptive Activities (Prevention) Ordinance, 1987

No. 2 of 1987

Promulgated by the President in the Thirty-eighth Year of the Republic of India.

An Ordinance to make special provisions for the prevention of, and for coping with, terrorist and disruptive activities and for matters connected therewith or incidental thereto.

WHEREAS the Council of States is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

PART I

Preliminary

1. *Short title, extent, application and commencement.*— (1) This Ordinance may be called the Ter-

rorist and Disruptive Activities (Prevention) Ordinance, 1987.

(2) It extends to the whole of India, and it applies also—

(a) to citizens of India outside India;

(b) to persons in the service of the Government, wherever they may be; and

(c) to persons on ships and aircraft registered in India, wherever they may be.

(3) It shall come into force on the 24th day of May, 1987.

2. *Definitions.*—(1) In this Ordinance, unless the context otherwise requires,—

(a) “abet”, with its grammatical variations and cognate expressions, includes,—

(i) the communication or association with any person or class of persons who is engaged in assisting in any manner terrorists or disruptionists;

(ii) the passing on, or publication of, without any lawful authority, any information likely to assist the terrorists or disruptionists, and the passing on, or publication of, or distribution of any document or matter obtained from terrorists or disruptionists;

(iii) the rendering of any assistance, whether financial or otherwise, to terrorists or disruptionists;

(b) “Code” means the Code of Criminal Procedure, 1973; 2 of 1974.

(c) “Designated Court” means a Designated Court constituted under section 8;

(d) “disruptive activity” has the meaning assigned to it in section 4, and the expression “disruptionist” shall be construed accordingly;

(e) “High Court” means the High Court of the State in which a judge or an additional judge of a Designated Court was working immediately before his appointment as such judge or additional judge;

(f) “Public Prosecutor” means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 12, and includes any person acting under the directions of the Public Prosecutor;

(g) “terrorist act” has the meaning assigned to it in sub-section (1) of section 3, and the expression “terrorist” shall be construed accordingly;

(h) words and expressions used but not defined in this Ordinance and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Ordinance to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding or the relevant provision of the corresponding law, if any, in force in that area.

PART II

Punishments for, and measures for coping with, terrorist and Disruptive Activities

3. *Punishment for terrorist acts.*—(1) Whoever with intent to overawe the Government as by law established or to strike terror in the people or any section of the people or to alienate any section of the people or to adversely affect the harmony amongst different sections of the people does any act or thing by using bombs, dynamite or other explosive substances or inflammable substances or firearms or other lethal weapons or poisons or noxious gases or other chemicals or by any other substances (whether biological or otherwise) of a hazardous nature in such a manner as to cause, or as is likely to cause, death or, or injuries to, any person or persons or loss of, or damage to, or destruction of, property or disruption of any supplies or services essential to the life of the community, or detains any person and threatens to kill or injure such person in order to compel the Government or any other person to do or abstains from doing any act, commits a terrorist act.

(2) Whoever commits a terrorist act, shall,—

(i) if such act has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to fine;

(ii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

(3) Whoever conspires or attempts to commit, or advocates, abets, advises or incites or knowingly facilitates the commission of, a terrorist act or any act preparatory to a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

(4) Whoever harbours or conceals, or attempts to harbour or conceal, any terrorist shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

4. *Punishment for disruptive activities.*—(1) Whoever commits or conspires or attempts to commit abets, advocates advises, or knowingly facilitates the commission of, any disruptive activity or any act preparatory to a disruptive activity shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

(2) For the purposes of sub-section (1), “disruptive activity” means any action taken, whether by act or by speech or through any other media or in any other manner whatsoever,—

(i) which questions, disrupts or is intended to disrupt; whether directly or indirectly, the sovereignty and territorial integrity of India; or

(ii) which is intended to bring about or supports any claim, whether directly or indirectly, for the cession of any part of India or the secession of any part of India from the Union.

Explanation. — For the purposes of this sub-section,—

(a) "cession" includes the admission of any claim of any foreign country to any part of India, and

(b) "secession" includes the assertion of any claim to determine whether a part of India will remain within the Union.

(3) Without prejudice to the generality of the provisions of sub-section (2), it is hereby declared that any action taken, whether by act or by speech or through any other media or in any other manner whatsoever, which—

(a) advocates, advises, suggests or incites; or

(b) predicts, prophesies or pronounces or otherwise expresses, in such manner as to incite, advise, suggest or prompt,

the killing or the destruction of any persons bound by oath under the Constitution to uphold the sovereignty and integrity of India or any public servants shall be deemed to be a disruptive activity within the meaning of this section.

(4) Whoever harbours or conceals, or attempts to harbour or conceal, any disruptionist shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

5. *Enhanced penalties.* — (1) If any person with intent to aid any terrorist or disruptionist, contravenes any provision of, or any rule made under, the Arms Act, 1959, the Explosives Act, 1884, the Explosive Substances Act, 1908 or the Inflammable Substances Act, 1952, he shall, notwithstanding anything contained in any of the aforesaid Acts or the rules made thereunder, be punishable with imprisonment for a term which shall not be less than five years but which may extend to term of life and shall also be liable to fine.

54 of 1959.
4 of 1884.
6 of 1908.
20 of 1952.

(2) For the purposes of this section, any person who attempts to contravene or abets, or attempts to abet, or does any act preparatory to the contravention of any provision of any law, rule or order, shall be deemed to have contravened that provision, and the provisions of sub-section (1) shall, in relation to such person, have effect subject to the modification that the reference to "term of life" shall be construed as a reference to "term of ten years".

6. *Conferment of powers.* — (1) Notwithstanding anything contained in the Code or in any other provision of this Ordinance, the Central Government may, if it considers it necessary or expedient so to do,—

(a) for the prevention of, and for coping with, any offence under section 3 or section 4; or

(b) for any case or class or group of cases under section 3 or section 4,

in any State or part thereof, confer, by notification in the Official Gazette, on any officer of the Central Government, powers exercisable by a police officer under the Code in such State or part thereof or, as the case may be, for such case or class or group of cases and in particular, the powers of arrest, investigation and prosecution of persons before any court.

(2) All officers of police and all officers of Government are hereby required and empowered to assist the officer of the Central Government, referred to in sub-section (1), in the execution of the provisions of this Ordinance or any rule or order made thereunder.

(3) The provisions of the Code shall, so far as may be and subject to such modifications made in this Ordinance, apply to the exercise of the powers by an officer under sub-section (1).

7. *Forfeiture of property of certain persons.* —

(1) Where a person has been convicted of any offence punishable under this Ordinance or any rule made thereunder, the Designated Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the accused and specified in the order, shall stand forfeited to the Government free from all encumbrances.

(2) Where any person is accused of any offence under this Ordinance or any rule made thereunder, it shall be open to the Designated Court trying him to pass an order that all or any properties, movable or immovable or both belonging to him, shall during the period of such trial, be attached, and where such trial ends in conviction, the properties so attached shall stand forfeited to the Government free from all encumbrances.

(3) (a) If upon a report in writing made by a police officer or an officer referred to in sub-section (1) of section 6, any Designated Court has reason to believe that any person, who has committed an offence punishable under this Ordinance or any rule made thereunder, has absconded or is concealing himself so that he may not be apprehended, such court may, notwithstanding anything contained in section 82 of the Code, publish a written proclamation requiring him to appear at a specified place and at a specified time not less than fifteen days but not more than thirty days from the date of publication of such proclamation.

(b) The Designated Court issuing a proclamation under clause (a) may, at any time, order the attachment of any property, movable or immovable or both, belonging to the proclaimed person, and thereupon the provisions of sections 83 to 85 of the Code shall apply to such attachment as if such attachment were made under that Code.

(c) If, within six months from the date of the attachment, any person, whose property is, or has been, under the disposal of the Government under sub-section (2) of section 85 of the Code, appears voluntarily or is apprehended and brought before the Designated Court by whose order the property was attached, or the Court to which such Court is subordinate, and proves to the satisfaction of such

Court that he did not abscond or conceal himself for the purpose of avoiding apprehension and that he had not received such notice of the proclamation as to enable him to attend within the time specified therein, such property or, if the same has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying therefrom all costs incurred in consequence of the attachment, be delivered to him.

(4) Where any shares in a company stand forfeited to the Government under this section, then, the company shall, notwithstanding anything contained in the Companies Act, 1956, or the articles of association of the company, forthwith register the Government as the transferee of such shares.

1 of 1956.

PART III

Designated Courts

8. *Designated Courts.*—(1) The Central Government or a State Government may, by notification in the Official Gazette, constitute one or more Designated Courts for such area or areas, or for such case or class or group of cases, as may be specified in the notification.

(2) Where a notification constituting a Designated Court for any area or areas or for any case or class or group of cases is issued by the Central Government under sub-section (1), and a notification constituting a Designated Court for the same area or areas or for the same case or class or group of cases has also been issued by a State Government under that sub-section, the Designated Court constituted by the Central Government whether the notification constituting such court is issued before or after the issue of the notification constituting the Designated Court by the State Government, shall have, and the Designated Court constituted by the State Government shall not have, jurisdiction to try any offence committed in that area or areas or, as the case may be, the case or class or group of cases, and all cases pending before any Designated Court constituted by the State Government shall stand transferred to the Designated Court constituted by the Central Government.

(3) Where any question arises as to the jurisdiction of any Designated Court, it shall be referred to the Central Government whose decision thereon shall be final.

(4) A Designated Court shall be presided over by a judge to be appointed by the Central Government or, as the case may be, the State Government, with the concurrence of the Chief Justice of the High Court.

(5) The Central Government or, as the case may be, the State Government may also appoint, with the concurrence of the Chief Justice of the High Court, additional Judges to exercise jurisdiction in a Designated Court.

(6) A person shall not be qualified for appointment as a judge or an additional judge of a Designated Court unless he is, immediately before such appointment, a sessions judge or an additional sessions judge in any State.

(7) For the removal of doubts, it is hereby provided that the attainment by a person appointed as a judge or an additional judge of a Designated Court of the age of superannuation under the rules applicable to him in the service to which he belongs, shall not effect his continuance as such judge or additional judge.

(8) Where any additional judge or additional judges is or are appointed in a Designated Court, the judge of the Designated Court may, from time to time, by general or special order, in writing, provide for the distribution of business of the Designated Court among himself and the additional judge or additional judges and also for the disposal of urgent business in the event of his absence or the absence of any additional judge.

9. *Place of sitting.*—A Designated Court may, on its own motion or on an application made by the Public Prosecutor, and if it considers it expedient or desirable so to do, may sit for any of its proceedings at any place, other than its ordinary place of sitting:

Provided that nothing in this section shall be construed to change the place of sitting of a Designated Court constituted by a State Government to any place outside that State.

10. *Jurisdiction of Designated Courts.*—(1) Notwithstanding anything contained in the Code, every offence punishable under any provision of this Ordinance or any rule made thereunder shall be triable only by the Designated Court within whose local jurisdiction it was committed or, as the case may be, by the Designated Court constituted for trying such offence under sub-section (1) of section 8.

(2) If, having regard to the exigencies of the situation prevailing in a State, the Central Government is of the opinion that—

(a) the situation prevailing in such State is not conducive to a fair, impartial or speedy trial, or

(b) it is not likely to be feasible without occasioning the breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor and the judge of the Designated Court or any of them, or

(c) it is not otherwise in the interests of justice, it may, with the concurrence of the Chief Justice of India (such concurrence to be obtained on a motion moved in that behalf by the Attorney-General), transfer any case pending before a Designated Court in that State to any other Designated Court within that State or in any other State.

(3) Where the whole or any part of the area within the local limits of the jurisdiction of a Designated Court has been declared to be, or forms part of, any area which has been declared to be a disturbed area under any enactment for the time being in force making provision for the suppression of disorder and restoration and maintenance of public order, and the Central Government is of opinion that the situation prevailing in the State is not conducive to fair, impartial or speedy trial within the State, of offences under this Ordinance or the rules made thereunder which such Designated Court is competent to try, the Central Government may with the concurrence of the Chief Justice of India, specify, by notification

in the Official Gazette, in relation to such court (hereafter in this sub-section referred to as the local court) a Designated Court outside the State (hereafter in this section referred to as the specified court), and thereupon—

(a) it shall not be competent, at any time during the period of operation of such notification, for such local court to exercise any jurisdiction in respect of, or try, any offence under this Ordinance or the rules thereunder;

(b) the jurisdiction which would have been, but for the issue of such notification, exercisable by such local court in respect of such offences committed during the period of operation of such notification shall be exercisable by the specified court;

(c) all cases relating to such offences pending immediately before the date of issue of such notification before such local court shall stand transferred on that date to the specified court;

(d) all cases taken cognizance of by, or transferred to, the specified court under clause (b) or clause (c) shall be dealt with and tried in accordance with this Ordinance (whether during the period of operation of such notification or thereafter) as if such offences had been committed within the local limits of the jurisdiction of the specified court or, as the case may be, transferred for trial to it under sub-section (2).

Explanation 1.—A notification issued under this sub-section in relation to any local court shall cease to operate on the date on which the whole or, as the case may be, the aforementioned part of the area within the local limits of its jurisdiction, ceases to be a disturbed area.

Explanation 2.—For the purposes of this section “Attorney-General” means the Attorney-General of India or, in his absence, the Solicitor-General of India or, in the absence of both, one of the Additional Solicitors-General of India.

11. Power of Designated Courts with respect to other offences.—(1) When trying any offence, a Designated Court may also try any other offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Ordinance of any offence, it is found that the accused person has committed any other offence under this Ordinance or any rule thereunder or under any other law, the Designated Court may convict such person of such other offence and pass any sentence authorised by this Ordinance or such rule or, as the case may be, such other law, for the punishment thereof.

12. Public Prosecutors.—(1) For every Designated Court, the Central Government or, as the case may be, the State Government, shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:

Provided that the Central Government or, as the case may be, the State Government, may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of Clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

13. Procedure and powers of Designated Courts.—

(1) A Designated Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence or upon a police report of such facts.

(2) Subject to the other provisions of this Ordinance, a Designated Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(3) Subject to the other provisions of this Ordinance, every case transferred to a Designated Court under sub-section (2) of section 10 shall be dealt with as if such case had been transferred under section 406 of the Code to such Designated Court.

(4) Notwithstanding anything contained in the Code, a Designated Court may, if it thinks fit and for reasons to be recorded by it, proceed with the trial in the absence of the accused or his pleader and record the evidence of any witness, subject to the right of the accused to recall the witness for cross-examination.

14. Protection of witnesses.—(1) Notwithstanding anything contained in the Code, all proceedings before a Designated Court shall be conducted in camera:

Provided that where the Public Prosecutor so applies, any proceedings or part thereof may be held in open court.

(2) A Designated Court may, on an application made by a witness in any proceedings before it or by the Public Prosecutor in relation to such witness or on its own motion, take such measures as it deems fit for keeping the identity and address of any witness secret.

(3) In particular and without prejudice to the generality of the provisions of sub-section (2), the measures which a Designated Court may take under that sub-section may include,—

(a) the holding of the proceedings at a place to be decided by the Designated Court;

(b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgements or in any records of the case accessible to public;

(c) the issuing of any direction for securing that the identity and addresses of the witnesses are not disclosed;

(d) that it is in the public interest to order that all or any of the proceedings pending before such a court shall not be published in any manner.

(4) Any person who contravenes any direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees.

15. *Trial by Designated Courts to have precedence.*—The trial under this Ordinance of any offence by a Designated Court shall have precedence over the trial of any other case against the accused in any other court (not being a Designated Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.

16. *Power to transfer cases to regular courts.*—Where, after taking cognizance of any offence, a Designated Court is of opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code and the court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

17. *Appeal.*—(1) Notwithstanding anything contained in the Code, an appeal shall lie as a matter of right from any judgment, sentence or order, not being an interlocutory order, of a Designated Court to the Supreme Court both on facts and on law.

(2) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Designated Court.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the Supreme Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

PART IV

Miscellaneous

18. *Modified application of certain provisions of the Code*—(1) Notwithstanding anything contained in the Code or any other law, every offence punishable under this Ordinance or any rule made thereunder shall be deemed to be a cognizable offence within the meaning of clause (c) of section 2 of the Code, and "cognizable case" as defined in that clause shall be construed accordingly.

(2) Section 21 of the Code shall, in relation to a case involving an offence punishable under this Ordinance or any rule made thereunder, apply subject to the modification that the reference to "the State Government" therein shall be construed as a reference to "the Central Government or the State Government".

reference to "the Central Government or the State Government".

(3) Section 164 of the Code shall apply in relation to a case involving an offence punishable under this Ordinance or any rule made thereunder, subject to the modification that the reference in sub-section (1) thereof to "Metropolitan Magistrate or Judicial Magistrate" shall be construed as a reference to "Metropolitan Magistrate, Judicial Magistrate, Executive Magistrate or Special Executive Magistrate".

(4) Section 167 of the Code shall apply in relation to a case involving an offence punishable under this Ordinance or any rule made thereunder subject to the modifications that—

(a) the reference in sub-section (1) thereof to "Judicial Magistrate" shall be construed as a reference to "Judicial Magistrate or Executive Magistrate or Special Executive Magistrate";

(b) the reference in sub-section (2) thereof to "fifteen days", "ninety days" and "sixty days", wherever they occur, shall be construed as references to "sixty days", "one year" and "one year" respectively; and

(c) sub-section (2A) thereof shall be deemed to have been omitted.

(5) Section 268 shall apply in relation to a case involving an offence punishable under this Ordinance or any rule made thereunder subject to the modifications that—

(a) the reference in sub-section (1) thereof—

(i) to "the State Government" shall be construed as a reference to the Central Government or the State Government";

(ii) to "order of the State Government" shall be construed as a reference to "order of the Central Government or the State Government, as the case may be"; and

(b) the reference in sub-section (2) thereof, to "State Government" shall be construed as a reference to "Central Government or the State Government, as the case may be".

(6) Sections 366 to 371 and section 392 of the Code shall apply in relation to a case involving an offence triable by a Designated Court subject to the modifications that references to "Court of Session" and "High Court", wherever occurring therein, shall be construed as references to "Designated Court" and "Supreme Court", respectively.

(7) Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under this Ordinance or any rule made thereunder.

(8) Notwithstanding anything contained in the Code, no person accused of an offence punishable under this Ordinance or any rule made thereunder shall, if in custody, be released on bail or on his own bond unless—

(a) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(b) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(9) The limitations on granting of bail specified in sub-section (8) are in addition to the limitations under the Code or any other law for the time being in force on granting of bail.

19. *Saving.*— (1) Nothing in this Ordinance shall affect the jurisdiction exercisable by, or the procedure applicable to, any court or other authority under any law relating to the naval, military or air forces or other armed forces of the Union.

(2) For the removal of doubts, it is hereby declared that for the purposes of any such law as is referred to in sub-section (1), a Designated Court shall be deemed to be a court of ordinary criminal justice.

20. *saving as to orders.*— Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Ordinance, a court shall, within the meaning of the Indian Evidence Act, 1872, presume that such order was so made by that authority.

1 of 1872.

21. *Overriding effect.*— The provisions of this Ordinance or any rule made thereunder or any order made under any such rule shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

22. *Protection of action taken under this Ordinance.*— No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government or any officer or authority of the Central Government or State Government or any other authority to whom powers have been delegated under this Ordinance for anything which is in good faith done or purported to be done in pursuance of this Ordinance or any rules made thereunder or any order issued under any such rule.

23. *Power of the Supreme Court to make rules.*— The Supreme Court may, by notification in the Official Gazette, make such rules, if any, as it may deem necessary for carrying out the provisions of this Ordinance relating to Designated Courts.

24. *Power to make rules.*— Without prejudice to the powers of the Supreme Court to make rules under section 23, the Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Ordinance.

25. *Rules to be laid before Houses of Parliament.*— Every rule made by the Central Government under this Ordinance shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the

successive sessions aforesaid, both Houses agree in making any modifications in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

ZAIL SINGH,
President.

S. RAMAIAH,
Secy. to the Govt. of India.

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GOVERNMENT OF GOA, DAMAN
AND DIU

Law Department
Legal Affairs Branch

Notification

LD/1/86-L.A.B./1026

The following Notification bearing F.N. 6/4/85-Legal-Cell dated the 13th November, 1986 issued by the Ministry of Home Affairs, New Delhi, and published in the Gazette of India, Extraordinary, Part II - Section 3 sub-section (i) dated 13-11-1986, is hereby republished for general information.

P. V. Kadnekar, Under Secretary (Drafting).
Panaji, 23rd December, 1986.

MINISTRY OF HOME AFFAIRS

New Delhi, the 13th November, 1986

G.S.R. 1200(E).— In exercise of the powers conferred by Section 5 of the Terrorist and Disruptive Activities (Prevention) Act, 1985 (31 of 1985), the Central Government hereby makes the following rules namely:—

1. *Short title and commencement.*— (1) These rules may be called the Terrorist and Disruptive Activities (Prevention) Rules, 1986.

(2) They shall come into force at once.

2. *Definitions.*— In these rules, unless the context otherwise required:—

(a) “Act” means the Terrorist and Disruptive Activities (Prevention) Act, 1985 (31 of 1985);

(b) “empowered authority” means any authority being the Central Government or a State Government or the Administrator of a Union territory under article 239 of the Constitution or an officer of the Central Government not lower in rank than that of a Joint Secretary to that Government or an officer of a State Government or a Union territory Administration not lower in rank than that of a District Magistrate or

an officer competent to exercise under any law the powers of a District Magistrate.

- (c) "essential service" shall include those services which the Central Government have declared to be such under the provisions of the Essential Services Maintenance Act, 1981 (40 of 1981);
- (d) "essential supplies" means articles which the Central Government being of opinion that the maintenance of supply thereof is essential to the life of the community, declares by an order in writing to be an essential article;
- (e) "media" shall include, besides newspapers and other printed material normally circulated, hand-written posters, booklets, hand-bills or display of slogans at public places;
- (f) "notified" and "notification" means notified and notification in the Official Gazette;
- (g) "official document" includes any passport, pass, permit certificates, licence, notice or other document issued by or under the authority of Government or any officer of the Armed Forces of the Union or any police officer;
- (h) "prescribed" means prescribed by any order or direction made or given in pursuance of any of these Rules;
- (i) "prohibited place" means a prohibited place as defined in clause 8 of section 2 of the Official Secrets Act, 1923 (19 of 1923);
- (j) "protected area" means any area so declared under rule 8;
- (k) "protected place" means a place so declared by the Central Government or a State Government and includes any court room or building where trials, or other proceedings in connection with cases under the Act, are held;
- (l) "public servant" includes any public servant as defined in the Indian Penal Code (45 of 1860);
- (m) "speech" shall include pre-recorded speeches;
- (n) "wireless telegraphy apparatus" has the same meaning as in the Indian Wireless Telegraphy Act, 1933 (17 of 1933).

3. Interpretation. — The General Clauses Act, 1897 (10 of 1897) shall apply to the interpretation of these rules as it applies to the interpretation of a Central Act.

(2) Any reference in these rules to a Central Act shall, in relation to any area wherein that Central Act is not in force, be construed as including a reference to the corresponding law in force in that area.

(3) If any question arises as to the interpretation of the rules, it shall be referred to the Central Government for decision.

4. Previous approval of the Central Government required in certain cases: —

Notwithstanding anything contained in these rules, no power conferred or duty imposed upon the State

Government or the Administrator of a Union Territory by such of the provisions of these rules as may be specified by the Central Government by notified order shall, with effect from such date as may be specified in such order, be exercised or discharged by any State Government or the Administrator of a Union territory, as the case may be, as specified in the order or by any officer or authority authorised in that behalf by that State Government or Administrator, except with the previous approval of the Central Government.

5. Non-compliance with these Rules or orders made thereunder: —

If any person to whom any provision of these rules relates, or to whom any order made in pursuance of these rules is addressed or relates, or who is in occupation, possession or control of any property, movable or immovable, or other thing to which such provision relates, or in respect of which such order is made.

(a) fails without lawful authority or excuse —

(i) in relation to such provision as relates to himself, or

(ii) in respect of any property, movable or immovable or other thing of which he is in occupation, possession or control,

to comply or to secure compliance, with such provision or order; or

(b) evades, or attempts to evade, by any means such provision or order — he shall be deemed to have contravened such provision or order; and in these rules the expression "contravention" with its grammatical variations includes any failure, evasion or attempt to evade.

6. Prohibited places. — (1) No person shall, without the permission of the Central Government or the State Government enter or be on or in or pass over or loiter in the vicinity of, any prohibited place.

(2) Where in pursuance of sub-rule (1) any person is granted permission to enter, or to be on or in, or to pass over, a prohibited place, that person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the Central Government or the State Government.

(3) Any police officer or any other person authorised in this behalf by the Central Government or the State Government may search any person entering, or seeking to enter; or being on or in, or leaving or passing over or seeking to pass over, a prohibited place and any vehicle, vessel, aircraft or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, vessel aircraft or article:

Provided that no female shall be searched in pursuance of this sub-rule except by a female.

(4) If any person is in a prohibited place in contravention of this rule, then, without prejudice to any other proceedings which may be taken, against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Central Government or the State Government.

(5) If any person is in a prohibited place in contravention of any of the provisions of this rule, he shall be punishable with imprisonment for a term which shall not be less than six months but may extend to three years and shall also be liable to fine.

7. Protected places.— (1) If, as respects any place or class or places, the Central Government, or the State Government considers it necessary or expedient for the prevention of and for coping with terrorist and disruptive activities that special precautions should be taken to prevent the entry of unauthorised persons or to exclude any person or class of persons, from having access to or being present in or in the vicinity of such a place or places, that Government may by order declare that place, or as the case may be, every place of that class to be a protected place, for such period as may be specified in the order. On and after such day, as may be specified in, and subject to any exemptions as may be made in, such order, no person not being a public servant, or a Judge, or an officer of the court, or an accused, as the case may be, shall be therein except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(2) A copy of the order issued under sub-rule (1) shall be affixed in English and in vernacular of the locality at some conspicuous part of the protected place.

(3) Any police officer, or any other person authorised in this behalf by the empowered authority may search any person entering or seeking to enter, or being in or in, or leaving a protected place, and any vehicle or article brought in by such person, and may, for the purpose of the search detain such person, vehicle or article:

Provided that no female shall be searched in pursuance of this sub-rule except by a female.

(4) If any person is in or passes over, a protected place in contravention of this rule, or refuses to submit himself or the vehicle or article for the time being in his possession for search, then, without prejudice to any other proceedings which may be initiated against him, he may be removed therefrom by or under the direction of any police officer or other person on security duty in such a place. Thereupon the vehicle or article found to be in possession of the person so removed may also be seized or directed to be seized.

(5) Any contravention of the provisions of this rule shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend upto three years and shall also be liable to fine.

8. Protected areas.— (1) If the Central Government or the States Government consider it necessary or expedient, for the prevention of and for coping with terrorist and disruptive activities, to regulate the entry of persons into any area, that Government may, without prejudice to the provisions of any other rule, by order, declare the area to be protected area, and thereupon, or so long as the order is in force, such area shall be a protected area for the purposes of these rules.

(2) A copy of the order issued under sub-rule (1) shall be affixed in English and in vernacular of the locality at some conspicuous part of the protected area.

(3) On and after such date as may be specified in, and subject to any exemption for which provision may be made by an order made under sub-rule (1), no person who was not at the beginning of the said day residing in the area declared to be a protected area by the said order shall be therein except in accordance with the terms of a permit granted to him by an authority or person specified in the said order.

(4) Any police officer, or any other person authorised in this behalf by the Central Government, or the State Government may search any person entering or seeking to enter or being on or in or leaving a protected area, and any vehicle, vessel, aircraft or article brought in by such person, and may, for the purposes of search detain such person, vehicle, vessel, aircraft or article:

Provided that no female shall be searched in pursuance of this sub-rule except by a female.

(5) If any person is in, or passes over, a protected area, in contravention of the provision of this rule, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer or any member of the Armed Forces of the Union on duty in the protected area.

(6) If any person is in a protected area in contravention of any of the provisions of this rule, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend upto three years and shall also be liable to fine.

9. Forcing or evading a guard.— Any person, whether alone or as part of a group of persons, who effects or attempts to effect entry into, or passes over, or attempts to pass over a prohibited place or a protected place—

(a) by using or threatening to use criminal force to any person posted for the purpose of protecting or controlling access to such place, or

(b) after taking precautions to conceal his entry or attempted entry from any such person shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

10. Orders for certain places and areas.— (1) Without prejudice to the provisions of any other rule, the Central Government or State Government as respects any other place or area in relation to which it appears to it to be necessary or expedient to take special precautions for prevention of, and for coping with, terrorist activities, may, make orders for controlling or regulating the admission of persons to, and the conduct of persons in, and in the vicinity of, such place or area.

(2) Without prejudice to the generality of the foregoing provisions, orders made under sub-rule (1)

in relation to any place or area may, make provision—

- (a) for restricting the admission of persons or class of persons to such place or area and for removing therefrom any person who is therein in contravention of the orders or who has been convicted of—
 - (i) any contravention of the provisions of these rules or;
 - (ii) any offence against public order;
- (b) for requiring the presence of any person, or class of persons, in such place or area (to be notified by the empowered authority) and for requiring any person who has been convicted of any such offence as is mentioned in clause (a) of this sub-rule to report his movements while in such place or area and to observe any other condition imposed upon him by such authority.
- (c) for prohibiting any person or class of persons in such place or area from being in possession or control of any prescribed article.

(3) Any order made under this rule in respect of a place, which is not a prohibited place or a protected place, may direct that all or any of the provisions of these rules which are expressed to apply to, or in relation to, a prohibited place or protected place, shall apply to or in relation to the place in respect of which the order is made either without modification or subject to such modifications as may be specified in the order.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which shall not be less than six months and may extend upto three years and shall also be liable to fine.

11. Trespassing on certain premises.—(1) No person shall commit criminal trespass on, or in any premises in the vicinity of, any premises used or appropriated for any of the purposes of the Government or for coping with terrorist acts or disruptive activities, or for protection from terrorists and disruptionists.

(2) If any person is found trespassing on any premises in contravention of sub-rule (1) he may, without prejudice to any other proceedings which may be taken against him, be removed from such premises by any police officer or any other person acting on behalf of Government, or by the person occupying the premises, or by any person authorised by him.

(3) No person shall, for any purpose prejudicial to the public safety, or for endangering the safety of any public servant or of any person bound by oath under the Constitution to uphold the sovereignty and territorial integrity of India be in, or in the vicinity of any such premises as referred to in sub-rule (1); and where, in any proceedings taken against a person by virtue of this sub-rule it is proved that at the material time he was present, in, or in the vicinity of the premises, the prosecution may thereupon adduce such evidence of the character of such person (including evidence of his having been previously convicted of any offence) as tends to

show that he was so present for a purpose prejudicial to the public safety or to the safety of any public servant or any person bound by oath under the Constitution to uphold the sovereignty and territorial integrity of India.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which shall not be less than six months but may extend in the case of contravention of sub-rule (3), to seven years and in any other case to three years and shall also be liable to fine.

12. Loitering near certain premises.—(1) No person loitering in the vicinity of any protected place or a prohibited place or any other place as is referred to in sub-rule (1) of rule 10 shall continue to loiter in that vicinity after being ordered to leave it by any police officer or any other person acting on behalf of Government or by the person in occupation of the said premises, or any person authorised by him.

(2) If any person contravenes the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

13. Power to close roads, etc.—(1) The Central Government or the State Government may, for reasons to be recorded in writing, by order, prohibit or restrict for such period as may be specified in the order,—

- (a) the use of any road, pathway, canal or water way;
- (b) the passage of any person, animal or vehicle over any land or the carriage of the number of persons by any such animal or vehicle;
- (c) the travelling of any person or class of persons from travelling by any vehicle or class of vehicles or by any road, pathway, canal or waterway.

(2) If any person contravenes any order made under sub-rule (1), he shall be punishable with imprisonment for a term which may not be less than six months but may extend to seven years and shall also be liable to fine.

14. Control of Telephones and Telegraphs.—(1) Where the empowered authority is satisfied or has reasonable grounds to suspect that a telephone connection of a subscriber or the telephone apparatus, is being used for purposes of, or for aiding or abetting or for making any preparation to aid or abet any terrorist or disruptive activity, may by order.—

- (a) direct that the telephone connection in question be cut off for such period as may be specified; and that all telephone apparatus and fittings on the premises be taken possession of by such person as may be specified in that order;
- (b) authorise any person, empowered by him in this behalf, by order in writing to listen in to all conversations or any specified conversation over any telephone system;
- (c) make provision for suspending or regulating the use otherwise than for government purposes, of any telegraph or telephone service in any area, which for the time

being may constitute, or form part of any area that had been declared to be a disturbed area under any enactment for the time being in force;

(d) assume the control or direction, or direct any person to assume the control or direction, of any private telephone exchange or any connection with any such exchange.

(2) If any person contravenes any order made under the provisions of sub-rule (1) he shall be punishable with imprisonment for a term which may not be less than six months but which may extend to seven years and shall also be liable to fine.

15. Power to prohibit and to search, etc. travellers conveying non-postal correspondence.—(1) In this rule "photograph" includes any photographic plate, photographic film or other sensitised article which has been exposed in a camera whether such plate, film or other article has been developed or not.

(2) The Central Government may, by order, make provision for securing that, subject to any exemptions for which provision may be made by the order, and except in accordance with such conditions as may be contained therein, no article whatsoever recording information and no document, pictorial representation photograph or gramophone record or cassette which advocates, abets, advises or incites or knowingly facilitates the commission of a terrorist activity or disruptive activity, shall be sent or conveyed, otherwise than by post, into or from India.

(3) No person shall have any article in his possession for the purpose of sending or conveying it in contravention of an order made under sub-rule (2).

(4) Any prohibition or restriction imposed by an order under sub-rule (2) on the sending into, or conveying from India of articles, shall be deemed to have been imposed under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act for the purpose of detection, search and seizure shall have effect accordingly:

Provided that notwithstanding anything contained in the Customs Act, 1962 (52 of 1962) or any orders made thereunder, a complaint regarding contravention of this rule shall be triable by a Designated Court within whose jurisdiction such a contravention took place or such other Designated Court to which the case may be transferred by the Central Government in terms of sub-section (2) or sub-section (3) of section 9 of the Act, and the accused person shall, upon conviction, be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and shall also be liable to fine.

(5) Any officer of Customs may, for the purpose of carrying into effect the provisions of this rule, take such steps (including the subjection of the article to any process) as may be necessary for ascertaining whether an article does or does not record any information of the nature specified.

(6) The Central Government or the State Government may, by order, authorise any person for the purposes of this rule to exercise the powers, and perform the duties conferred or imposed on a Collector of Customs or any subordinate officer of customs by or under the Customs Act, 1962 (52 of 1962).

16. Entering India.—(1) The Central Government may, by notified order, make provision for securing that, subject to such exemptions as may be provided for in the order, any person or class of persons shall not, on coming from a place outside India, enter India elsewhere than at such place as may be specified in the order.

(2) If any person enters India in contravention of any order made under sub-rule (1) or of the provisions of, or any rule or order made under the Passport (Entry into India) Act, 1920 (34 of 1920), he shall, without prejudice to any other proceedings which may be taken against him, be punishable with imprisonment for a term which shall not be less than six months, but may extend to five years and shall be liable to fine.

17. Information to be supplied by persons entering India.—(1) The Central Government may, by notified order, require any person or class of persons who has entered India and about whom there is prima facie ground to believe that such person or class of persons is likely to indulge in any activity, while in India that may disrupt harmony amongst different sections of the people in India or otherwise incite, advocate, abet or advise or knowingly facilitate any terrorist or disruptive activity in India, since such date as may be specified, to furnish to the empowered authority in such manner as may be specified such particulars regarding himself, his dependent, his past and prospective movements and any travel document in his possession, as may be specified in that order.

(2) If any person contravenes any order made under sub-rule (1) he shall be punishable with imprisonment which may not be less than six months, or with fine which may extend to one thousand rupees.

18. Communication with persons assisting terrorists and disruptionists.—(1) No person shall communicate or associate with any person or class of persons if he has reasonable cause to believe that such other person or class of persons is engaged in assisting the terrorists and disruptionists.

(2) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

19. Articles likely to afford information or other assistance to the terrorists and disruptionists.—(1) In this rule "information likely to assist the terrorists and disruptionists" means any information, whether true or false, or any document or other record whatsoever containing or purporting to contain, or calculated, directly or indirectly, to convey any information whether true or false, that may, or is intended directly or indirectly to, or is likely to cause disaffection, or alarm, or to prejudice maintenance of peaceful conditions in any area or part of India or to promote feelings of ill will, enmity or hatred between different sections of the people of India or otherwise facilitate the commission of any terrorist act or disruptive activity, that is to say—

(a) any operations or projected operations of any of the Armed Forces of the Union or the Police Force, by whatever name called, of a State;

- (b) the conditions of the citizens of India or of any class thereof or the sympathies of such citizens or class, as regards the sovereignty and territorial integrity of India;
- (c) any arrangements relating to the protection of transport, communications, prohibited places, protected places, supplies and services essential to the community, security of any public servant or persons bound by oath under the Constitution to uphold the sovereignty and integrity of India and would include any information which is intended or is likely:—
 - (i) to bring into hatred or contempt, or to excite disaffection towards the Government established by law in India;
 - (ii) to bring into hatred or contempt, or excite disaffection towards the Armed Forces of the Union or the Police Force, by whatever name called, of a State or any public servant or class of public servants;
 - (iii) to promote feelings of enmity or hatred or otherwise affect the harmony between different classes of persons in India;
 - (iv) to cause fear or alarm to the public or to any section of the public; or
 - (v) to instigate directly or indirectly the use of criminal force against public servants generally or any class of public servants or any individual public servant.

(2) No person shall without lawful authority or excuse—

- (a) obtain, collect, record, elicit, make, print or publish, or distribute or communicate or spread by any means whatsoever, to any other person or class of persons any information likely to assist the terrorists and disruptionists; or
- (b) make, print, publish or distribute any publication containing, or communicate to any person by any means whatsoever, any such information;
- (c) help the author, editor, printer and publisher of, or any person who otherwise makes or produces any information likely to assist the terrorists and disruptionists, or any person including a reporter or correspondent of any news agency or journalist, distributes or sells any information or report of that nature, knowing it to be of such nature;
- (d) help the proprietor, manager or any other person in control of any place in which, or every person who takes part in any public performance of any play, pantomime, drama or recitation in the course of which any information likely to assist the terrorists and disruptionists is published, or any video or cassette containing such information is exhibited.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with

imprisonment for a term which may extend to five years and shall also be liable to fine.

20. *Prohibition of publishing matter derived from terrorists, or disruptionists etc.*—(1) No person shall, without lawful authority, make, print publish or distribute any document containing or spread by any other means whatsoever, any matter derived from terrorists or disruptionists, their sympathisers or associates, or sources sponsored or utilised by or otherwise connected with terrorists, disruptionists, or their associates or sympathisers.

(2) In any proceedings arising out of a contravention of sub-rule (1) where it appears to the Designated Court that the substance of any matter—

- (i) broadcast from any wireless broadcasting station operated or controlled by the terrorists and disruptionists, or
- (ii) published in any leaflet distributed by the terrorists and disruptionists, by any means whatsoever, is at any subsequent time reproduced, whether in the same or a different form and whether with or without comments, in any document, or cassette the Designated Court may presume that the matter contained in the document or cassette, as the case may be, is derived from a terrorist or disruptionist source.

(3) If any person contravenes the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

Explanation: In this rule "document" includes gramophone records, cassettes, tapes, sound-tracks and any other articles on which sound has been recorded with a view to their subsequent reproduction.

21. *Measures in relation to certain premises:*—

(1) The Central Government or the State Government may by order as respects such premises as may be specified in the order—

- (a) require the owner or the occupier of the premises to take such measures as may be specified in the order, or
- (b) authorise any person to take such measures as may be so specified,

which are in the opinion of that Government necessary to prevent the use of the premises by terrorists or disruptionists or for committing or planning or preparing for any terrorist act or disruptive activity, or to minimize danger to persons and property in or in the vicinity of such premises during any operations against terrorists and disruptionists.

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which shall not be less than six months and shall also be liable to fine.

22. *Possession, use or Disposal of arms, explosives, etc.*—(1) The Central Government or the State Government may, by general or special order, pro-

hibit, restrict or impose conditions on, the possession, carrying, use, sale or other disposal of—

- (a) arms or articles capable of being used as arms;
- (b) ammunition;
- (c) dangerous substances.

Explanation: For the purposes of this rule, "dangerous substances" mean—

- (i) substances, which are or are declared to be explosives within the meaning of the Explosives Act, 1884 (4 of 1884), and
- (ii) substances which [being substances capable of being used in the manufacture of explosives, or being corrosive substances or inflammable substances or poisons or noxious gases or other chemicals or any other substances (whether biological or otherwise) or for any other reason] are declared in the order to be dangerous substances.

(2) Without prejudice to any powers conferred by or under any other law for the time being in force—

- (a) if any police officer not below the rank of head constable or any other public servant authorised by the empowered authority to act under this rule, suspects that any arms, articles capable of being used as arms, ammunition or dangerous substances are in or upon any land, vehicle, aircraft, vessel, building or other premises in contravention of an order made under sub-rule (1), he may enter, if necessary by force, and search the land, vehicle, aircraft, vessel, building or premises in or upon which he suspects that a contravention of an order made under sub-rule (1) has been committed at any time of the day or night and may seize any arms, articles capable of being used as arms, ammunition, or dangerous substances found therein or thereon which he suspects to be therein or thereon in contravention of such order.
- (b) if any police officer, or any other public servant authorised by the empowered authority to act under this rule, suspects that any person is carrying, or is in possession of arms, articles capable of being used as arms, ammunition, or dangerous substances in contravention of an order made under sub-rule (1), such officer or other public servant may stop and search or cause to be searched such person and seize any arms, articles capable of being used as arms, ammunition, or dangerous substances possessed or carried by him which such officer or other public servant suspects to be possessed or carried in contravention of such order:

Provided that no female shall be searched in pursuance of the provisions of this rule except by a female.

(3) Any arms, ammunition, dangerous substances or other articles seized under the provisions of this

rule may be destroyed or otherwise disposed of as may be ordered by the empowered authority.

(4) Any contravention of any order made under this rule shall be punishable as follows:—

- (a) if the contravention had taken place in an area which forms the whole or any part in an area which has been declared to be 'disturbed area' under any enactment for the time being in force, with imprisonment which shall not be less than three years but which may extend to seven years and shall also be liable to fine.
- (b) in cases where the contravention had taken place in an area the whole or part of which is covered by notifications issued under section 24A or 24B of the Arms Act, 1959 (54 of 1959) shall be punishable with imprisonment for a term which shall be not less than three years but which may extend to seven years and shall also be liable to fine.
- (c) where the contravention has taken place in an area not covered by clause (a) or (b), such contravention shall be punishable with imprisonment for a term which shall not be less than one year and shall also be liable to fine.

23. Assistance to terrorists or disruptionists.—

(1) No person shall directly or indirectly indulge in any of the following activities, which are or are likely to facilitate the commission of a terrorist act or disruptive activity or which are likely to prejudice the successful conduct of operations against any terrorist or disruptionist, —

- (a) advance money to, or enter into any contract with any terrorist or disruptionist or any person engaged in conspiring or attempting to commit or who advocates, abets advises or incites or knowingly facilitates the commission of a terrorist act or a disruptive activity, or any act preparatory to such a terrorist or disruptive activity; or
- (b) pay any sum of money to or for the benefit of any such person; or
- (c) give any security for the payment of any debt or any other sum of money for the benefit of such a person; or
- (d) act on behalf of such a person in drawing, accepting paying, presenting for acceptance or payment, negotiating, or otherwise dealing with any negotiable instrument; or
- (e) accept, pay or otherwise deal with any negotiable instrument which is held by or on behalf of a terrorist or a disruptionist or such other person as specified in clause (a); or
- (f) enter into any other financial obligation or contract with or for the benefit of any terrorist or disruptionist of any such person as specified in clause (a).

(2) No citizen of India who is for the time being outside India or persons in the service of the Government, wherever they may be, or the master of

any vessel or the pilot of any aircraft registered in India shall extend any assistance whatsoever to terrorists or disruptionists or such other persons as specified in sub-rule (1).

(3) The Central Government, may, either generally or for any particular area, empower one or more authorities as it may deem fit for securing compliance with the provisions of sub-rule (1) and such authorities may issue such orders or directions to institutions including banks, in writing, as it may deem fit, with reference to transactions made by or on behalf of any terrorist or disruptionist or any other person connected with a terrorist or a disruptionist in any manner whatsoever.

(4) Any person who knowingly expends or supplies any money in furtherance or support of any activity which is an offence under the Act shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

24. *Obstructing lawful authorities.*—If any person voluntarily obstructs, or offers any resistance to, or impedes or otherwise interferes with—

- (a) any member of the Armed Forces of the Union or the Police Force by whatever name called of a State acting in the course of his duty as such, or
- (b) any authority, officer or person exercising any powers, or performing any duties, conferred or imposed upon it or him by or in pursuance of these rules, or otherwise discharging any lawful functions in connection with the operations to prevent and cope with the terrorist acts and disruptive activities, or
- (c) any person who is carrying out the orders of any such authority, officer or person as aforesaid or who is otherwise acting in accordance with his duty in pursuance of these rules, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

25. *Attempts, etc. to contravene the rules.*—Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of, any of the provisions of these rules or of any order made thereunder, shall be deemed to have contravened that provision or, as the case may be, that order.

26. *Offences by companies.*—(1) Where an offence against the provisions of these rules, or of any order made thereunder, has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-rule shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-rule (1), where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary, or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purposes of the rule,—

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director",—
 - (i) in relation to a firm, means a partner in the firm,
 - (ii) in relation to a society or other association of individuals, means the person who is entrusted, under the rules of the society or other association, with the management of the affairs of the society or other association, as the case may be.

27. *Burden of proof in certain cases.*—Where any person is prosecuted for contravening any of these rules or order made thereunder which prohibits him from doing an act or being in possession of a thing without lawful authority or excuse or without a permit, licence, certificate or permission, the burden of proving that he had such authority or excuse or, as the case may be, the requisite permit, licence, certificate or permission, shall be on him.

28. *Power to issue search warrants.*—(1) If a District Magistrate, Commissioner of Police in a Metropolitan area or any officer competent to exercise under any law the powers of a District Magistrate has reason to believe that a contravention of any of these rules or any offence prejudicial to the operations to prevent and cope with the terrorist acts and disruptive activities has been, is being, or is about to be, committed in any place, he may by warrant authorise any police officer above the rank of a constable—

- (a) To enter and search the place in the manner specified in the warrant; and
- (b) to seize anything found in or on such place which the police officer has reason to believe has been, is being, or is intended to be, used, for the purpose of or in connection with any such contravention or offence as aforesaid, and

the provision of the Code of Criminal Procedure, 1973 (2 of 1974) shall, so far as they may be applicable, apply to any such search or seizure, as they apply, to any search or seizure made under the authority of a warrant issued under section 94 of the Code.

(2) Any Magistrate before whom anything seized under sub-rule (1) is conveyed shall forthwith report the fact of such seizure to the State Government and, pending the receipt of its orders may detain in custody anything so seized or make such other order for its safe custody as he may think proper.

(3) Anything seized under sub-rule (1) shall be disposed of in such manner as the State Government may direct.

(4) In this rule, and in rule 29 "place" includes a house, building, tent, vehicle and aircraft.

29. *Powers of search.* — (1) The Central Government or the State Government may by general or special order empower any person to —

- (a) stop and search any vessel found in inland waterways or any vehicle or animal;
- (b) search any place (including any vessel wherever found) and seize anything found on search under this sub-rule (including a vessel vehicle or animal) which he has reason to believe has been, is being, or is about to be, used for the commission of any offence punishable under the Act or these rules.

(2) Any person empowered under sub-rule (1) shall forthwith report to the State Government in detail any seizure made by him and, pending the receipt of its orders may detain in custody anything so seized or take such other steps for its safe custody as he may think proper.

(3) Anything seized by a person empowered under sub-rule (1) shall be disposed of in such manner as the Designated Court may direct.

(4) A person empowered by the Central Government or the State Government under sub-rule (1) may authorise any other person to exercise like powers as his own in the whole or any part of the area in respect of which the Government has empowered him.

30. *Entry and inspection of land.* — Any member of the Armed Forces of the Union or of the State Police Force acting in the course of his duty as such, and any person authorised by the Central Government or the State Government to act under this rule: —

- (a) may enter on any land for the purpose of exercising any of the powers conferred in

relation to that land by any of the provisions of the Act and these rules;

- (b) may enter and inspect any land for the purpose of determining whether, and, if so, in what manner, any of those powers are to be exercised in relation to that land;
- (c) may, for any purpose connected with the operations to prevent and cope with terrorist acts and disruptive activities, pass (with or without animals or vehicles) over any land.

31. *Powers to give effect to Rules, orders, etc.* —

(1) Any authority, officer or person who is empowered by or in pursuance of the Act or any of these rules to make any order, or to exercise any other power may, in addition to any other action prescribed by or under these rules, take, or cause to be taken, such steps and use, or cause to be used, such force, including the locking or sealing of any premises until a search or inspection thereof or seizure of any articles or things therein has been completed, as may in the opinion of such authority, officer or person, be reasonably necessary for securing compliance with, or for preventing or rectifying any contravention of, such order, or for the effective exercise of such power.

(2) Where in respect of any of the provisions of these rules there is no authority, officer or person empowered to take action under sub-rule (1), the Central Government or the State Government may take, or cause to be taken, such steps and use, or cause to be used, such force as may in the opinion of that Government be reasonably necessary for securing compliance with or preventing or rectifying any breach of such provision.

(3) For the avoidance of doubt, it is hereby declared that the power to take steps under sub-rule (1) or under sub-rule (2) includes the power to enter upon any land or other property whatsoever.

[F. No. 6/4/85-Legal Cell]
C. T. BENJAMIN, Jt. Secy.